

STATE OF WISCONSIN
SUPREME COURT

EMPLOYEE TRUST FUNDS BOARD,
THE DEPARTMENT OF EMPLOYEE TRUST
FUNDS and ERIC O. STANCHFIELD,
Secretary of the Department of
Employee Trust Funds,

Petitioners,

v.

Case No.

GEORGE LIGHTBOURN, Acting
Secretary of the Wisconsin
Department of Administration,
JACK C. VOIGHT, Wisconsin
State Treasurer,

Respondents.

**PETITION FOR PRELIMINARY INJUNCTION OR,
ALTERNATIVELY, FOR WRIT OF PROHIBITION AGAINST
IMPLEMENTATION OF 1999 AB 495 (1999 WIS. ACT 11)
AND 1999 AB 584 (1999 WIS. ACT 12)**

Petitioners, by their attorneys, hereby petition
the Supreme Court, pursuant to Article VII, section
3(2) of the Wisconsin Constitution and section 751.07,
Stats., for entry of a preliminary injunction or writ
of prohibition enjoining and prohibiting Petitioners
and Respondents from taking those actions directed by
1995 Assembly Bills 495 and 584, which have been signed

by the Governor and will become effective after their publication dates as 1999 Wis. Act 11 and 12, respectively (hereinafter the "Legislation"), or otherwise implementing or enforcing the Legislation, after it has become effective, until such time as the Supreme Court rules on the constitutionality of the Legislation and declares which of its portions, if any, should be implemented and enforced.¹ Notwithstanding the foregoing, Petitioners request that they not be enjoined from taking such contingent and preparatory measures toward implementation of the Legislation as they deem appropriate in their discretion and consistent with their fiduciary and other duties and responsibilities for administering the terms of the public employee trust fund ("Trust Fund") so as to allow for the smoothest transition, and least amount of

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One of the changes to the Wisconsin Retirement System ("WRS") made by AB 495 was to increase the value of death benefits provided to a beneficiary of a participating employee. An unintended effect of the death benefit change was that an estate, or any other unnatural person, could not be named the beneficiary for a participating employee. AB 584 corrects that unintended effect by permitting an estate or other unnatural person to be the beneficiary of a participating employee. Thus, AB 495 and AB 584 are treated hereafter as a package of legislation that together must be enjoined until the Supreme Court rules on the provisions of AB 495.

disruption to Trust Fund participants, should some or all of the provisions of the Legislation be declared valid.

The grounds for this petition are that Petitioners have a reasonable likelihood of success on the merits with regard to the request for declaratory and injunctive relief concerning the constitutionality and enforceability of the Legislation, as set forth in Petitioners Petition For Leave To Commence An Original Action And For Leave To Have Petition Stand As A Complaint Seeking Declaratory Judgment; and the rights of participants in the Wisconsin Retirement System ("WRS") will be irreparably harmed with no adequate remedy at law if the Legislation is implemented and then those implementation steps are required to be nullified and the status quo ante returned because of a finding of unenforceability of the Legislation. Further grounds are set forth in the Affidavit of David A. Stella and supporting brief, and in all matters of record.

On information and belief, Respondents do not oppose entry of the requested preliminary injunction in the form submitted with this petition.

Dated this _____ day of December, 1999.

Respectfully Submitted,

WHYTE HIRSCHBOECK DUDEK SC

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